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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,602	02/11/2002	Bradley W. Smith	14181	4831

21552 7590 04/08/2003

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EXAMINER

GORMAN, DARREN W

ART UNIT	PAPER NUMBER
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3752

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DATE MAILED: 04/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/074,602

Applicant(s)

SMITH ET AL.

Examiner

Darren W Gorman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 28-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

- I. Extinguishing system operating independently of a vehicle system
- II. Extinguishing system incorporated into a vehicle control system

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the

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examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Attorney Sally J. Brown on April 2, 2003, a provisional election was made without traverse to prosecute the invention of species Group I, claims 1-27. Affirmation of this election must be made by applicant in replying to this Office action. Claims 28-35 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

#### ***Information Disclosure Statement***

4. The information disclosure statement (IDS) submitted on May 30, 2002 was filed after the mailing date of the Application on February 11, 2002. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

***Minor Claim Suggestions By Examiner***

5. The body of the claims of the present invention is understood by the Examiner, however the following change is recommended to improve clarity. The claims have been examined on the merits including the suggested changes below.

In claim 22, line 3, the limitation “the” in “the manifold” has not previously been recited in any of the linking claims. Examiner suggests replacing “the” with “a” in order to avoid lacking antecedent basis in the claim.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-4, 6-9, 11, 13-16, and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas, USPN 6,164,383, in view of Parkinson et al., USPN 5,992,528.

Regarding claims 1-2, 4, 6-9, 11, 13-14, 16, and 18-21, Thomas discloses a modular engine compartment fire detection and extinguishing system (100) for vehicles comprising, a detector (160, 170, 175) for detecting a fire within an engine compartment of a vehicle, a trigger (200) electrically coupled to the detector to generate an initiation signal once the detector detects a fire in the engine compartment (see Figure 1), wherein the trigger comprises a first power source (Battery B) and a second power source (capacitors C-1a and C-2a) positioned proximal to a switch (202), wherein the first power source is coupled to the second power source such that

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the second power source remains operable when the first power source fails (see Figure 3; and column 4, lines 48-54), the switch coupled to the power source and the detector, the switch allowing an initiation signal to flow from the power source to a fire extinguisher (110) (see Figure 1), and a modular distribution line (132) having one end in fluid communication with the fire extinguisher and the other end connected to a nozzle (131) for dispersing a dry powdered fire suppressant within the engine compartment (see column 2, lines 9-15, column 3, lines 13-28, and Figure 1). Thomas also discloses the fire extinguisher as comprising a propellant contained under pressure electrically coupled to the trigger to receive the initiation signal, however Thomas does not disclose the fire extinguisher as being a "gas generant" fire extinguisher, wherein the gas generant fire extinguisher comprises a housing having gas generant material stored in one end, an initiator in communication with the gas generant, and an orifice plate within the housing that separates the gas generant from fire suppressant material also stored within the housing, the orifice plate having an exhaust gas orifice formed therein, wherein the exhaust gas orifice allows exhaust gas generated by actuation of the gas generant to pass through the orifice plate and suspend fire suppressant within the exhaust gas.

Parkinson discloses a fire extinguisher cylinder (110), particularly useful in motor vehicle fire suppression systems (see column 1, lines 28-32), for generating a gas propellant to propel a dry powdered fire suppressant material (158), also enclosed within the extinguisher cylinder (see Figure 2), in the event of a fire. Parkinson discloses the fire extinguishing cylinder comprising a housing (116) having a gas generant material (131) stored in one end, an initiator assembly (134) in communication with the gas generant, wherein the initiator assembly is arranged to receive an electrical initiation signal to ignite the gas generant material, and an orifice plate (127) within the

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housing that separates the gas generant from the fire suppressant material, the orifice plate having an exhaust gas orifice (125) formed therein, wherein the exhaust gas orifice allows exhaust gas generated by actuation of the gas generant to pass through the orifice plate and suspend the fire suppressant within the exhaust gas (see Figure 2; and column 4, lines 20-65).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a gas generant fire extinguisher, as taught by Parkinson, with the modular engine compartment fire detection and extinguishing system, as disclosed by Thomas, in order to more rapidly extinguish the fire or source of flame, especially in the event of a ruptured fuel line.

Regarding claims 3 and 15, since the system of Thomas, as modified above, is arranged so that the suppressant is in direct contact with the exhaust gas orifice, the extinguisher cylinder could be mounted in an inverted position without effecting the operability of the system, whereby gravity would maintain substantial contact between the fire suppressant and the exhaust gas orifice.

8. Claims 5 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas in view of Parkinson as applied to claims 1 and 13 above, and further in view of Lai et al., USPN 5,941,315.

Thomas, as modified, discloses all of the claimed elements as set forth in claims 1 and 13, however the system does not comprise a manifold in fluid communication with the gas generant fire extinguisher to allow a flow of exhaust gas exiting the extinguisher to enter one or more distribution lines to disperse fire suppressant throughout the engine compartment.

Lai discloses a manifold (26, 28) in fluid communication with a fire extinguisher cylinder (22) of an automobile engine fire extinguishing system (10), wherein the manifold allows a flow of a fire suppressant exiting the extinguisher to enter more than one distribution line (20, 12) to disperse fire suppressant throughout the engine compartment (see Figures 1 and 3; and column 3, lines 55-63, and column 4, lines 1-2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a manifold, as taught by Lai, with the system of Thomas, as modified, in order to equally disperse fire suppressant material into more than one distribution line for a faster extinguishing response in the event of a fire.

9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas in view of Parkinson as applied to claim 1 above, and further in view of Scofield, USPN 5,207,276.

Thomas, as modified, discloses all of the claimed elements as set forth in claim 1, however the detector is not disclosed as a linear temperature sensitive cable.

Scofield discloses a fire extinguishing system using intertwined temperature sensitive wires (39), wherein the wires are coated with plastic insulation with a pre-determined melting point, so that the wires communicate electrically with one another when the plastic insulation melts at the pre-determined temperature, thereby sending an electric signal to actuate the fire suppression system (see Figures 1 and 2; column 1, lines 16-18, and column 6, lines 34-65).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the detectors as disclosed by Thomas, with the linear temperature sensitive cable, as taught by Scofield, in order to reduce the complexity of the detecting portion of the



system, as well as to continuously monitor for the presence of fire along a user-selected pre-determined path so as not to limit detection of a fire condition to discreet sensing zones.

10. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas in view of Parkinson as applied to claim 1 above, and further in view of Sears et al., USPN 5,660,236.

Thomas, as modified, discloses all of the claimed elements as set forth in claim 1, however the system does not expressly teach the interchangeable use of a liquid suppressant and a dry powdered suppressant.

Sears discloses a fire extinguishing cylinder using gas pressure as a propellant to discharge a suppressant material in a fire hazard area, wherein the suppressant material can be either "a suitable dry powder or water" (see column 2, lines 44-50).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include liquid (i.e. water), as taught by Sears, as another potential fire suppressant for the system of Thomas, as modified, for suppressing a type of fire that is more responsive to a liquid suppressant than a dry suppressant.

11. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas in view of Parkinson as applied to claim 21 above, and further in view of Brennan, USPN 6,378,617.

Thomas, as modified, discloses all of the claimed elements as set forth in claim 21, however the modular distribution line is not disclosed comprising a fastener on each end, such that the fasteners allow modular distribution lines to be removebly connected to a manifold, a nozzle, and each other by way of a coupler.

Brennan discloses a motor vehicle fire suppression system wherein the portion of the system for distributing fire extinguishing material includes T-fitting fasteners (86) allowing removable connection between a main supply line (46), further supply lines (45-48, and 50-52), and nozzles (60, 62-65) (see Figures 3-4).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include universal T-fitting fasteners as taught by Brennan, with the modular fire extinguishing system of Thomas, as modified, in order to configure and adapt the fire extinguishing system to protect virtually any fire hazard zone, including the countless possible dimensions of different motor vehicle engine compartments that exist.

12. Claims 23-24, and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas, modified above, as applied to claim 22, and further in view of Scofield, USPN 5,207,276.

Thomas, as modified, discloses all of the claimed elements as set forth in claim 22, and also discloses the fire suppressant as being a dry powdered suppressant, the system as performing the function of coating an engine within an engine compartment with the dry powdered fire suppressant carried by the exhaust gas, and wherein the system operates independently of numerous other vehicle systems. However the system does not disclose the detector as a linear temperature sensitive cable.

Scofield discloses a fire extinguishing system using intertwined temperature sensitive wires (39), wherein the wires are coated with plastic insulation with a pre-determined melting point, so that the wires communicate electrically with one another when the plastic insulation

melts at the pre-determined temperature, thereby sending an electric signal to actuate the fire suppression system (see Figures 1 and 2; column 1, lines 16-18, and column 6, lines 34-65).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the detectors as disclosed by Thomas, with the linear temperature sensitive cable, as taught by Scofield, in order to reduce the complexity of the detecting portion of the system, as well as to continuously monitor for the presence of fire along a user-selected pre-determined path so as not to limit detection of a fire condition to discreet sensing zones.

13. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas, modified above, as applied to claim 23, and further in view of Sears et al., USPN 5,660,236.

Thomas, as modified, discloses all of the claimed elements as set forth in claim 23, however the system does not expressly teach the interchangeable use of a liquid suppressant and a dry powdered suppressant.

Sears discloses a fire extinguishing cylinder using gas pressure as a propellant to discharge a suppressant material in a fire hazard area, wherein the suppressant material can be either "a suitable dry powder or water" (see column 2, lines 44-50).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include liquid (i.e. water), as taught by Sears, as another potential fire suppressant for the system of Thomas, as modified, for suppressing a type of fire that is more responsive to a liquid suppressant than a dry suppressant.

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*Conclusion*

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US patent to Lewis et al. discloses several variations of gas generating cylinders usable in fire suppression systems.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W Gorman whose telephone number is 703-306-4205. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on 703-308-2087. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.

Darren W Gorman  
Examiner  
Art Unit 3752

DWG 4/3/02  
DWG  
April 3, 2003

*Michael Mar*  
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